



Comptroller General  
of the United States

1020112

Washington, D.C. 20548

## Decision

**Matter of:** Environmental Tectonics Corporation

**File:** B-254260

**Date:** December 1, 1993

Timothy S. Kerr, Esq., Elliott, Vanaskie and Riley, for the protester.

Terrence J. Tychan, Esq., Department of Health and Human Services, for the agency.

Sylvia Schatz, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Protest that agency failed to disclose all proposal deficiencies during discussions, and that discussions therefore were not meaningful, is denied where record shows that written discussions in fact included all deficiencies on which rejection of protester's proposal was based.

2. Allegation that agency improperly downgraded protester's technical proposal under one evaluation factor is dismissed as academic since, even if protester's evaluation score were increased by the total amount of points available under that factor, its overall score would remain so much lower than awardee's that protester would not be in line for award.

### DECISION

Environmental Tectonics Corporation (ETC) protests the award of a contract to Getinge International under request for proposals (RFP) No. 263-93-P(AN)-0013, issued by the National Institutes of Health (NIH) for a steam sterilizer. The protester primarily argues that the evaluation of its proposal was improper, and that the agency failed to conduct meaningful discussions.

We dismiss the protest in part and deny it in part.

The solicitation, issued on January 11, 1993, contemplated the award of a firm-fixed-price contract for a pit mounted steam sterilizer with a micro-computerized control system, printer, and accessories. Section C of the solicitation contained several pages of specifications for the required items. Section M of the solicitation provided that award

would be made to the offeror whose offer conforms to the RFP and is most advantageous to the government when evaluated on the basis of five factors: "product offered", which involved evaluation of the product's compliance with specifications (20 available points on a scale of 100); support services (20 points); experience (20 points); management (15 points); and price (25 points). The solicitation warned that since the technical portion of the proposal will be the most important for award consideration, the proposal submitted should be as complete and specific as possible.

Four proposals, including ETC's and Getinge's, were received. ETC's technical proposal received an overall technical score of 36.5 (of the 75 available technical points), while Getinge's received a score of 71.6 points. (The record does not show separate point scores under each of the four evaluation factors). NIH found that ETC's proposal failed to show that it met numerous RFP requirements, but that it was susceptible of becoming acceptable; it thus included the ETC offer in the competitive range for discussion purposes. By letter dated March 19, NIH presented ETC with 13 specific questions and comments regarding deficiencies in ETC's proposal, and requested best and final offers (BAFO). Three offerors, including ETC, submitted BAFOs. ETC's BAFO received a revised score of 41.8 points, while Getinge's received a perfect score of 75. NIH concluded that ETC's BAFO had not eliminated a number of the identified deficiencies, and thus eliminated ETC from the competition as technically unacceptable. Award was made to Getinge.

On June 14, ETC filed an agency-level protest, arguing, among other things, that it should have received the award because its BAFO met all RFP specifications and requirements. By letter dated July 13, NIH denied ETC's protest. This letter listed 14 specific requirements which ETC's BAFO failed to meet, and the specific reasons why it did not conform. On July 27, ETC filed this protest with our Office.

#### EVALUATION

ETC maintains that NIH incorrectly concluded that its proposal did not satisfy various specifications. This aspect of the protest is academic. Although it is not clear what score ETC received under the product offered factor (in evaluating BAFOs the agency assigned only an overall technical score), a change in ETC's score for that factor would not have affected the award. Even if we assume that ETC received no points under the "product offered" factor, increasing the firm's technical score by the full 20 available points under this factor to show that ETC's

product is acceptable would increase ETC's score only to 6.0, still significantly lower than Getinge's perfect score of 10.0. Although ETC's price (\$221,200) was somewhat lower than Getinge's (\$240,000), the RFP attributed three times more weight to the technical factors than to price. Under the evaluation scheme as established in the solicitation, the agency could not reasonably forego Getinge's significant technical superiority in favor of ETC's lower price. Thus, we will not consider ETC's arguments concerning the evaluation under this factor. See Aqua-Chem, Inc.; Gismo, Inc., B-249516.2; B-249516.3, May 18, 1993, 93-1 CPD ¶ 389.


## DISCUSSIONS

ETC maintains that the agency failed to disclose during discussions numerous deficiencies in its proposal which were identified in the agency's July 13 letter as grounds for finding its proposal technically unacceptable, and that the discussions therefore were not meaningful.

There is no requirement that agencies conduct all-encompassing discussions; rather, agencies are only required to reasonably lead offerors into those areas of their proposals needing amplification given the context of the procurement. See Eagan, McAllister Assocs., Inc., B-231983, Oct. 28, 1988, 88-2 CPD ¶ 405.

NIH met this standard. Although NIH did not describe to ETC every specific proposal deficiency, it did direct the firm to every area of the requirements where ETC's proposal did not demonstrate compliance with the requirements. For example, NIH requested ETC to provide additional information or clarification that its proposal met the RFP's specifications regarding article 4.0, the door to the sterilizer, article 5.0, the component operating system, and article 6.0, the sterilizer controls system. Since, as indicated above, the RFP contained detailed specifications covering all of the required items, NIH's requests provided ETC with adequate notice that the firm should review the referenced specification and either modify its proposal or explain its compliance with that specification. We think that is all that was reasonably required here, and we therefore conclude that the discussions were adequate.

The protest is dismissed in part and denied in part.

  
 for James F. Hinchman  
 General Counsel